

III. REMARKS

Claims 1 and 5 are amended. Applicant appreciates the indication of allowable subject in claims 2, 5 and 6 but submits that the claims are patentable as amended.

An interview was held between Examiner Papapietro and the undersigned on September 6, 2007 in which interview the rejection of claims 1 and 4 was discussed. Applicant described the operation of the devices in Blake (US 5,281,220) and Modin (US 4,744,147) as compared to what is claimed by Applicant. The structural differences between Modin and what is claimed by Applicant were also described by Applicant. The Examiner reasserted the rejections in the present office action in response to Applicant's statements as outlined in the Examiner's interview summary dated September 14, 2007.

Claim 5 is amended to overcome the rejection under 35 U.S.C. 112, second paragraph.

Claims 1 and 4 are patentable over Blake (US 5,281,220) and Modin (US 4,744,147) under 35 U.S.C. 103. Claim 1 recites that each of the first and second lever members being independently and pivotably mounted on the handle for movement between respective first and second positions. This feature is not disclosed or suggested by the combination of Blake and Modin.

As described in Applicant's prior responses, the device in Blake is structurally configured so that it is operated using a stationary hand grip (32), a moveable hand lever (40) and a slide member (66) including a finger loop (68) (Col. 1, L. 38-65). The moveable hand lever (40) is pivotally attached to the housing at a pivot axis (42) (Col. 2, L. 65-67) while the slide member (66)

moves or slides longitudinally along the tube (16) (Col. 3, L. 41-58). Thus, Blake does not disclose or suggest "that each of the first and second lever members being independently and pivotably mounted on the handle for movement between respective first and second positions" as recited in Applicant's claim 1. Combining Modin with Blake fails to remedy this deficiency.

Modin discloses scissors (10) having a first cutting member (12) where end (16) of the cutting member (12) defines a thumb loop (22 (Col. 2, L. 7-14). The scissors (10) also have a second cutting member (24) pivotally secured to the first cutting member (12) by a screw (26) at their respective mid-points (Col. 2, L. 15-17). The second cutting member includes has a second shank (27) with shank sides (27s', 27s'') where the shank (27) terminates at a finger loop (36). The finger loop (36) is integrally bound to the shank (27). (Col. 2, L. 24-28). The second cutting member also includes a pointer loop (46) on the second shank (27). There is simply no disclosure in Modin "that each of the first and second lever members being independently and pivotably mounted on the handle for movement between respective first and second positions" as recited by Applicant.

The Examiner argues that a first lever is formed between the finger loop (36) of Modin and the screw (26) and that a second lever is formed between the second pointer loop (46) and the screw (26). However, because the finger loop (36) and pointer loop (46) of Modin are integral to the shank (27) of the second cutting member (24) (See Figs. 1 and 2) the levers formed by the loops (36, 46) cannot be "independently and pivotably mounted on the handle for movement between respective first and second positions". When finger loop (36) is pivoted about screw (26) the pointer loop (46) must pivot with it (and vice versa) because

the loops 36, 46 are both part of and integrally formed with the shank (27). The levers defined by the loops (36, 46) are simply not "independently and pivotally mounted" as claimed in Applicant's claim 1.

Further, if the second cutting member (24) is considered to be the "handle" as claimed by Applicant, there is only one lever connected to the cutting member (24) (i.e. the lever formed by the first cutting member (12) and thumb loop (22)).


Therefore, claim 1 is patentable over the combination of Blake and Modin because their combination does not disclose or suggest that each of the first and second lever members being independently and pivotably mounted on the handle for movement between respective first and second positions as recited in claim 1.

Claim 4 depends from claim 1 and is allowable at least by reason of its dependency.

For all of the foregoing reasons, it is respectfully submitted that all of the claims now present in the application are clearly novel and patentable over the prior art of record, and are in proper form for allowance. Accordingly, favorable reconsideration and allowance is respectfully requested. Should any unresolved issues remain, the Examiner is invited to call Applicants' attorney at the telephone number indicated below.

The Commissioner is hereby authorized to charge payment for any fees associated with this communication or credit any over payment to Deposit Account No. 16-1350.

Respectfully submitted,


William J. Knotts, Jr.
Reg. No. 53,145

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Date

Perman & Green, LLP
425 Post Road
Fairfield, CT 06824
(203) 259-1800
Customer No.: 2512

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